IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 12634 of 2004

Between:

M/s.Elpro International Limited, Plot No.89 & 90, IDA,
Gandhi Nagar, Balanagar, Hyderabad, rep., by its Vice-President, Sri
N.Subrahmanian

... PETITIONER

AND

1 Commercial Tax Officer, Sanathnagar Circle, Hyderabad.
2 Appellate Deputy Commissioner (CT) Punjagutta Division, Hyderabad.
3 Additional Commissioner (CT)(L), Andhra Pradesh, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction particularly one in the nature of writ of mandamus granting stay of collection of the balance disputed tax of Rs.5,35,235/- in respect of assessment year 1999-2000 and Rs.1,93,235/- in respect of assessment year 2000-01 arising in pursuance of the stay rejection orders of the third respondent dated 23-06-2004 passed in CCT'S Ref.No.LIII(2)/(294/2004 or to pass such further or other orders in the circumstances of the case.

Counsel for the Petitioner: MR.SKRISHNA MURTHY

Counsel for the Respondent No.1 to 3: GP FOR COMMERCIAL TAX

The Court made the following:

<u>O R D E R</u> (Per Hon'ble Sri Justice Bilal Nazki)

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The main grievance of the petitioner is that pending an appeal, he applied for stay before the third respondent-Additional Commissioner (CT)(L), Hyderabad. His grievance is that he had to pay tax at the rate of 4%, but because he could not produce `C' forms at the time of assessment, he was charged tax at the rate of 16%. He submits that he produced "C" forms before the Additional Commissioner (CT), but still he did not pass an order of stay. The learned Additional Commissioner has recorded that the `C' forms were not produced before him. He also observed that the appeal was pending before ADC (CT), and he would deal with the prayer for condonation of delay in filing of the statutory forms.

If really the petitioner was in possession of the `C' forms, the Additional Commissioner should have taken them into consideration and passed appropriate orders. Without going into the controversy whether `C' forms were placed before him or not, we set aside the order of the Additional Commissioner, remand the case back to him, with a direction that he will pass orders on stay application after taking into consideration the `C' statutory forms which the petitioner may place before him.

The petitioner shall appear before the third respondent on 24.07.2004. Till 24.07.2004, no coercive steps shall be taken against the petitioner.

The writ petition is disposed of accordingly. No costs.

Sd/- (P.EKAMBARAM)

ASSISTANT REGISTRAR

// TRUE COPY//

SECTION OFFICER

To

1 Commercial Tax Officer, Sanathnagar Circle, Hyderabad.
2 Appellate Deputy Commissioner (CT) Punjagutta Division, Hyderabad.
3 Additional Commissioner (CT)(L), Andhra Pradesh, Hyderabad.

4 2 CCs to G.P for Commercial Tax, High Court of A.P.,Hyd.(OUT)

5 2 CD copies.

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